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VIA FEDERAL EXPRESS

March 23, 1995

Mr. William F. Caton
Office of the Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

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Re: *Amendment of Policies and Rules Concerning Operator Service Providers and Call Aggregators*, CC Docket No. 94-158, Notice of Proposed Rulemaking and Notice of Inquiry, FCC 94-352 (February 8, 1995).

Dear Mr. Caton:

Enclosed for filing on behalf of EXECUTONE Information Systems, Inc. please find the following:

- a. one original and nine copies of the Reply Comments filed in response to the Notice of Inquiry in the above referenced matter;
- b. one original and one copy of this transmittal letter.

Please acknowledge receipt of this filing by stamping the enclosed copy of this letter and returning it in the stamped, self-addressed envelope provided. Thank you for your attention to this matter.

Sincerely,

Joyce E. Johnson, Esq.
Regulatory Attorney
EXECUTONE Information Systems, Inc.
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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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MAR 24 1995

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In the Matter of

**Amendment of Policies and Rules
Concerning Operator Service
Providers and Call Aggregators**

CC Docket No. 94-158

**REPLY COMMENTS OF
EXECUTONE INFORMATION SYSTEMS, INC.**

EXECUTONE Information Systems, Inc. ("EXECUTONE" or the "Company") submits these Reply Comments in response to the Federal Communication Commission's ("FCC" or "Commission") Notice of Proposed Rule Making ("NPRM") and Notice of Inquiry ("NOI"), FCC 94-352 (released February 8, 1995), in the above-referenced proceeding.

I. DISCUSSION

The majority of Comments filed in response to the Notice of Inquiry ("NOI") into whether the Commission should modify its current regulatory treatment of inmate-only telephones agree that expansion of the definition of "aggregator" in the TOCSIA statute¹ is unnecessary and would increase the risks of toll fraud and criminal activity over inmate telephones.² The Nevada Public Service Commission ("NPSC") , however, believes that

¹Telephone Operator Consumer Services Improvement Act of 1990, 47 U.S.C. § 226.

²Gateway Technologies, Inc., Comments at 1-5 ("Gateway"); National Association of State Telecommunications Directors Regulatory Committee and State of South Carolina Budget and Control Board, Comments at 1-3 ("NASTD"); Opus Correctional Inc. d/b/a LocTel, Comments at 1-7, 9-10("LocTel"); MCI Telecommunications Corporation, Comments at

inclusion of inmate telephone service in the definition is in the public interest.³

NPSC expressed concerns about the high rates charged for some inmate calls which may be caused by the commissions paid to confinement facilities.⁴ Based on the purported need to regulate the rates and terms of inmate telephone service, the NPSC suggests expansion of the definition of aggregator. This suggestion is overbroad. The NPSC does not address the difficulties which would arise if inmates had access to 800 numbers and emergency services, i.e. increased access to the network facilitating additional criminal activity, fraud and harassing phone calls. In addition, it does not address the required control confinement facility officials demand including call screening and other restrictions on inmate calling which these officials deem necessary to deter harassing calls or other abusive use of telephone service by inmates. The NPSC has incorrectly concluded that the only vehicle to redress its concerns is exposing inmate telephones to the aggregator rules. As discussed in EXECUTONE's Comments, concerns over the exorbitant prices charged by some members of the industry can be eliminated by the

7("MCI"); Ameritech Operating Companies, Comments at 5-6; AT&T Corp, Comments at 5-6("AT&T"); State of Georgia Department of Administrative Services, Comments at 2-3 ("Georgia"); Pacific Bell and Nevada Bell, Comments at 3-4 ("PacBell"); Minnesota Department of Public Service, Comments at 3-4 ("Minnesota"); Southwestern Bell Telephone Company, Comments at 4-5 ("SWB"); GTE Service Corporation, Comments at 4 ("GTE"); Sprint Corporation, Comments at 3 ("Sprint"); Robert Cefail & Associates American Inmate Communications, Inc., Comments at 5-9, 10 ("RC&A"); Global Tel*Link, Comments at 4, 7-9 ("Global"); Consolidated Communications Public Services Inc., Comments at 1-5 ("Consolidated"); Ameritel Pay Phones, Inc., Comments at 2-10 ("Ameritel") Inmate Calling Services Providers Task Force, Comments at 8-10 ("ICSPTF") . *See also*, Public Utility Commission of Texas, Comments at 3-4 ("PUCT")

³Public Service Commission of Nevada, Comments at 2-3 ("NPSC").

⁴Public Service Commission of Nevada, Comments at 2-3 ("NPSC").

establishment of rate caps.⁵

Three parties suggest imposition of BPP is the solution to redress any complaints received from the public.⁶ The Commission should rely on the substantial record provided in the BPP Docket to determine whether it is necessary to impose BPP on inmate-only phones.⁷

"[C]orrectional officials have made clear that they need the ability to control inmate calling, including the decision of which carrier handles inmate calls from their facilities". ICSPTF, Comments at 4. Imposition of BPP on inmate-only telephones will eliminate the ability of correctional officials to exert control over the carrier handling the call and thus will severely impair correctional officials ability to control use and abuse of the telephone system.

Additionally, if BPP is imposed on inmate-only phones, all carriers would have to expend additional sums to upgrade facilities for BPP and to establish whatever screening may be available to identify calls placed by inmates so that these calls can be handled accordingly. This capital expenditure is likely to increase rates for inmate calls which is the basis of the complaints received. It is also an avoidable cost. The BPP record provides all the necessary data which supports a conclusion that consumer concerns over high rates can be redressed by establishment of a rate cap that will avoid costly new technologies and provide correctional

⁵EXECUTONE Information Systems, Inc., Comments at 16, 19-20 ("EXECUTONE").

⁶SWB, Comments at 4. *See also*, GTE Comments at 3-4 ("Assuming the Commission decides BPP is in the public interest and mandates its implementation, GTE recommends that BPP be made applicable to inmate phones . . ."); Sprint, Comments at 4-5 ("If the Commission believes that BPP can and should be applied to prison phones, that should end complaints about high rates for collect calls from prisons. . .").

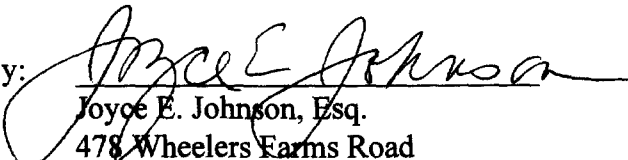
⁷*Billed Party Preference for 0+ InterLATA Calls*, CC Docket No. 92-77, Further Notice of Proposed Rule Making, FCC 94-117, 9 FCC Rcd 3323 (June 6, 1994).

officials with the ability to prevent fraud, harassing calls or other criminal or abusive acts by inmates.

II. CONCLUSION

If the FCC determines that it is necessary to impose any regulatory oversight on the provision of inmate-only telephones, it should impose rate caps on carriers providing the service. Expansion of the definition of "aggregator" to include inmate only-phones or the imposition of BPP will substantially impair the required control of corrections officials necessary to eliminate or substantially deter fraud, harassment or other criminal acts or abuses of prison telephones.

RESPECTFULLY SUBMITTED,

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